

U.S.P.S. EXPRESS MAIL "POST OFFICE TO ADDRESSEE" SERVICE
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Express Mail Label No.: EV 655029583 US

Date of Deposit: June 7, 2005

Our Case No. 9623/338

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Thomas A. Soulanille et al.

Serial No. 09/915,801

Filing Date: July 26, 2001

For IMPROVED SYSTEM AND
METHOD FOR INFLUENCING A
POSITION ON A SEARCH
RESULT LIST GENERATED BY A
COMPUTER NETWORK SEARCH
ENGINE

Examiner: Alaubaidi, Haythim J.

Group Art Unit No. 2161

**PETITION FOR AN UNINTENTIONALLY DELAYED CLAIM FOR
PRIORITY UNDER 37 C.F.R. § 1.78**

Mailstop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests reconsideration of the dismissal of Applicant's Petition For An Unintentionally Delayed Claim For Priority Under 37 C.F.R. § 1.78 filed July 12, 2004 and re-submitted on November 4, 2005. The application became abandoned as of March 9, 2005 upon mailing of a Decision on Petition. This Petition under 37 C.F.R. § 1.78 is submitted in conjunction with a petition to revive the unintentionally abandoned application under 37 C.F.R. 1.137(b) and a Request for Reconsideration under 37 C.F.R. § 1.114 and an accompanying Amendment.

In a Decision on Petition mailed October 21, 2004, the petition under 37 C.F.R. § 1.78(a)(3) was dismissed. According to the Decision, "a *proper* amendment adding the

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claim has not been filed. Rule 78 may not be used to incorporate by reference material which was not previously incorporated by reference. In this case, the amendment [filed July 12, 2004] seeks to incorporate by reference the contents of application no. 09/872,737."

Accordingly, along with a Request for Reconsideration, Applicants submitted on November 4, 2004 an Amendment which proposed to amend the present application by substituting the following paragraph for the paragraph beginning at page 1, line 5:

This application is a continuation of application serial number 09/872,737, filed June 1, 2001, in the name of inventor Thomas A. Soulanille, pending, which is a continuation in part of application serial number 09/322,677 filed May 28, 1999 in the names of Darren J. Davis, et al., now U.S. patent number 6,269,361.

In a Decision on Petition mailed March 9, 2005, it was determined that the application was abandoned when the examiner determined that the July 12, 2004 amendment failed to place the application in condition for allowance. The March 9 Decision on Petition proposed that Applicant file a petition to revive the application and a Request for Continued Examination.

This Petition for an Unintentionally Delayed Claim for Priority under 37 C.F.R. § 1.78 is accompanied by a Petition to revive the unintentionally abandoned application under 37 CFR. § 1.137. Under separate cover, and on even date herewith, Applicant has also filed

- (1) a Request for Continued Examination under 37 C.F.R. 1.114 and
- (2) an amendment to make the proper claim for priority.

In accordance with PTO rules, the Request for Continued Examination and the Amendment have been sent by express mail to Mailstop RCE at the PTO.

The substance of the Petition filed July 12, 2004 is repeated below:

The application was filed on July 16, 2001 and included as the first sentence of the application a claim to priority. The claim to priority stated that the application "is a

continuation in part of application serial number 09/322,677 filed May 28, 1999 in the names of Darren J. Davis, et al., now U.S. patent number 6,269,361...."

A related application, application serial number 09/872,737, was filed on June 1, 2001 in the name of inventor Thomas A. Soulanille. That related application disclosed substantially the same subject matter as the present application. Through inadvertence, the priority of the related application was not claimed at the time of filing of the present application. Accordingly, Applicant respectfully requests grant of a claim to priority of the related application.

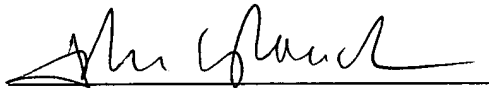
The entire delay between the date the claim for priority of the prior related application was due under 37 C.F.R. § 1.78(a)(2) and the date the claim was filed was unintentional.

Favorable consideration of the arguments herein and entry of the revised claim for priority are respectfully requested.

Fee payment

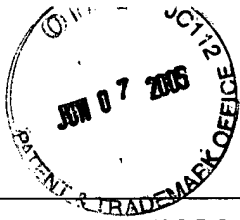
The undersigned hereby authorizes the Commissioner to charge payment of the petition fee as set forth in 37 C.F.R. § 1.17(t) as well as any additional fees, to Deposit Account No. 23-1925. A duplicate copy of this paper is enclosed. Should this payment be insufficient or should any other fee be required, please charge such fee or credit any excess fee paid to Deposit Account No. 23-1925.

Respectfully submitted,



John G. Rauch
Registration No. 37,218
Attorney for Applicant

June 7, 2005
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200



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Our Case
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In re Application of:)
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Thomas A. Soulanille et al.)
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Serial No. 09/915,801) Examiner: Alaubaidi, Haythim J.
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Filing Date: July 26, 2001) Group Art Unit No. 2161
)
For IMPROVED SYSTEM AND)
METHOD FOR INFLUENCING A)
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RESULT LIST GENERATED BY A)
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ENGINE)

**PETITION UNDER 37 CFR 1.137(b) TO REVIVE UNINTENTIONALLY ABANDONED
APPLICATION**

Mailstop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Petition is submitted in conjunction with a Request for Continued
Examination Under 37 C.F.R. § 1.114 and an accompanying Amendment.

Applicant hereby petitions under 37 CFR 1.137(b) to revive the above-referenced
U.S. Patent Application Serial No. 09/915,801, filed on July 26, 2001. A final office
action was mailed on January 13, 2004. A reply to the office action was filed by

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under 37 C.F.R. § 1.136 and a petition under 37 C.F.R. 1.78(a)(3) for an unintentionally delayed claim for priority.

In a Decision on Petition mailed October 21, 2004, the petition was dismissed on grounds that the July 12, 2004 amendment did not properly add the required priority claim. The Decision on Petition stated that, "before the petition under 37 C.F.R. 1.78(a)(3) can be granted, a substitute amendment deleting the incorporation by reference statement, along with a renewed petition under 37 C.F.R. 1.78(a)(3), is required." The file was then forwarded to the examiner to determine if the proposed amendment raised new issues. The examiner determined that the July 12, 2004 amendment failed to place the application in condition for allowance. Accordingly, the U.S. Patent and Trademark Office considered the application abandoned as of July 14, 2004.

Prior to receipt of a Notice of Abandonment, in response to the Decision on Petition mailed October 21, 2004, Applicant submitted on November 4, 2004, a Request for Reconsideration of the Petition under 37 C.F.R. 1.78(a)(3) and a Supplementary Amendment After Final Rejection to correct the noted deficiency in the July 12, 2004 amendment.

The U.S. Patent and Trademark Office mailed a Notice of Abandonment on April 7, 2005, which was received by Applicant's Agent on April 12, 2005. Applicant is thereby filing this Petition to Revive the application.

This Petition under 37 CFR. § 1.137 is accompanied by a Petition For an Unintentionally Delayed Claim for Priority under 37 C.F.R. § 1.78. Under separate cover, and on even date herewith, Applicant has also filed

- (1) a Request for Continued Examination under 37 C.F.R. 1.114 and
- (2) an amendment to make the proper claim for priority, along with renewed petition under 37 C.F.R. 1.78(a)(3).

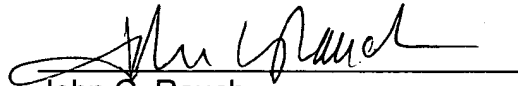
In accordance with PTO rules, the Request for Continued Examination and the Amendment have been sent by express mail to Mailstop RCE at the PTO.

Applicants declare that it was never the intention of Applicants to abandon the application and that the entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional.

Pursuant to 37 CFR 1.137(b)(2), the undersigned hereby authorizes the Commissioner to charge payment of the petition fee as set forth in 37 CFR 1.17(m) as well as any additional fees, to Deposit Account No. 23-1925. A duplicate copy of this paper is enclosed.

With this response, the application is believed to be in condition for early action on the merits. Should the examiner deem a telephone conference to be of assistance in advancing the application to allowance, the examiner is invited to call the undersigned attorney at the telephone number below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John G. Rauch", is written over a horizontal line.

John G. Rauch
Registration No. 37,218
Attorney for Applicant

June 7, 2005
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200

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**BRINKS
HOFER
GILSON
& LIONE**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: Thomas A. Soulanille et al.

Appln. No.: 09/915,801

Filed: July 26, 2001

For: IMPROVED SYSTEM AND METHOD FOR
INFLUENCING A POSITION ON A
SEARCH RESULT LIST GENERATED BY
A COMPUTER NETWORK SEARCH
ENGINE

Examiner: Alaubaidi, Haythim

Art Unit: 2161

Attorney Docket No: 9623/338

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

☒ Petition Under 37 CFR 1.137(b) to Revive Unintentionally Abandoned Application (3 pages), in duplicate;
Petition For an Unintentionally Delayed Claim For Priority Under 37 C.F.R. 1.78 (3 pages), in duplicate

☒ Return Receipt Postcard

Fee calculation:

☐ No additional fee is required.

☐ Small Entity.

☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).

☒ A petition or processing fee in an amount of \$1500 under 37 C.F.R. § 1.17(m).

☒ A petition or processing fee in an amount of \$1370 under 37 C.F.R. § 1.17(t).

☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$25=			x \$50=	
Indep.		Minus			X100=			x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=			+ \$360=	
					Total	\$		Total	\$

Fee payment:

☐ A check in the amount of \$_____ is enclosed.

☒ Please charge Deposit Account No. 23-1925 in the amount of \$2870. A copy of this Transmittal is enclosed for this purpose.

☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

6/7/05
Date

John G. Rauch
John G. Rauch (Reg. No. 37,218)